

REMARKS

This is in response to the Office Action of July 13, 2006. In the Office Action, Claims 3 and 16 were objected to because of certain informalities. Claims 1-6 and 9-19 were rejected under 35 USC §112, second paragraph as being indefinite. In addition:

(1) Claims 1-4 and 9-10, 15-17 were rejected under 35 USC 102(b) as being anticipated by U.S. Patent No. 6,221,332 to Thumm;

(2) Claims 5 and 7 and 1-4, 9-11 and 15-21 were rejected under 35 USC 102(b) as being anticipated by U.S. Patent No. 5,314,506 to Midler;

(3) Finally, claims 5-7 were rejected under 35 USC 103 as being unpatentable over Midler in view of U.S. Patent No. 3,685,261 to McIlvaine;

By this Amendment, Applicants have amended the claims to address the above-identified objections and rejections. In particular, Claims 3 and 16 have been corrected to address the informalities set forth in the Office Action. In addition, the claims have been amended to address the rejection under 35 USC §112. In particular, Claims 1, 2 and 5 have been amended to recite "mixing of at least some of the particles from the first and second streams."

Turning now to the rejections based on art, claim 1 has been amended to recite the additional steps of "dissolving an organic compound in a water miscible first solvent to create a first solution" and "mixing the first solution with a second solvent to precipitate the organic compound to create a suspension of particles." Furthermore, Claim 1 has been amended to recite "introducing the said suspension into a chamber of comminuting apparatus." By this Amendment, it is clear that Claim 1 is directed to performing the dissolving, mixing steps outside of the comminuting apparatus. The

suspension of particles is then introduced into apparatus and moved through the chamber. These additional steps are neither shown nor suggested in either Thumm or Midler. For this reason, Claim 1 is not anticipated nor would it have been obvious in view of the cited art.

Claim 2 has been amended to recite "moving a suspension of particles from a first entrance point in a first fluid stream and a second entrance point in a second fluid stream, where the second entrance point is substantially oppositely disposed relative to the first and second entrance point." Claim 2 has been further amended to recite the additional step of "contacting at least one of the first and second streams with an obstruction disposed between the first and second entrance points to redirect at least one of the second streams to cause the shearing." Applicants respectfully submit that neither Thumm nor Midler disclose this contacting step. Thumm, for example, discloses a chamber (shown in Fig. 2(a), 2(b) and 2(c)), including a macromixing, mesomixing and micromixing zones. However, none of these embodiments disclosed in Thumm show two separate entrance points disposed substantially opposite relative to each other, and contacting at least one of the first and second streams with an obstruction disposed between the first and second entrance points. Midler, likewise shows a chamber where, although the entrance points are substantially opposite relative to each other (see Fig. 3), no obstruction between the entrance points is shown or suggested. For these reasons, neither Thumm nor Midler anticipate nor would they have rendered obvious Claim 2.

Claim 5 has been amended to recite introducing an organic compound and solvent into a chamber of a device, contacting said suspension with an impacting

surface and moving a second fluid stream in a direction that is substantially opposite to the first stream so as to substantially avoid direct impingement of said streams. Claim 5 is not anticipated by Midler because Midler specifically discloses and teaches directing the streams so that they will impinge. For example, Midler states that “the jet nozzle should be placed so that the fluid streams they emit will impinge, either inside the jet chamber or directly in the stirred vessel. The fluid jets must impinge to create an immediate high turbulence impact” (Col. 6, lines 15-19) (emphasis added). As noted above, Claim 5 has now been amended to recite substantially avoiding direct impingement of the streams. For this reason, Claim 5 is not anticipated by Midler.


Claim 7 has been amended to recite contacting at least one of said solution streams with an impingement surface having a first contacting surface shaped to redirect at least one of said first and second solution streams such that the streams substantially avoid direct impingement. As discussed above in relation to Claim 5, Midler favors impingement and teaches positioning the streams so that they “must impinge.” For this reason, Claim 7 is not anticipated by Midler.

It will be noted that Claims 3 and 4 have been cancelled. Applicants reserve the right to pursue claims similar to the scope of Claims 3 and 4 in further prosecution. New dependent claims 22-28 have been added to recite particular features of particular embodiments.

Finally, it is further noted that Claims 12-14 were rejected only under 35 USC §112, second paragraph. Thus, the rejections based on Section 112, second paragraph having been overcome as discussed above, it is believed that at the very least, these claims should now be allowed.

However, Applicants also submit that based on the foregoing, all of the pending claims and new claims are now in condition for allowance. Reconsideration and allowance of such claims are respectfully requested.

Respectfully submitted,



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